IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 1246 of 2005

Between:

Y. Somasekhar Reddy S/o Ramireddy
Nallamada, Anantapur District

..... PETITIONER

AND

1 The Depot Manager, APSRTC., Kadiri Depot, Kadiri, Anantapur District
2 The Deputy Chief Traffic Manager, APSRTC., Anantapur Region,

Anantapur District
3 The Regional Manager, APSRTC. Anantapur Region, Anantapur District

.....RESPONDENT(S)

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the 1st respondent in imposing major penalty vide proceedings No. 02/62(149)/94-KDR dated 13-7-1995 without conducting enquiry and confirming the same by the 2nd respondent his proceedings vide Nos. St/19(297)/95. ATP dated 1-9-1998 and the proceedings NO. PA/20(5)/99-RM-A dated 29-8-2000 passed by the 3rd respondent, as illegal, arbitrary, unjustified unsustainable, contrary to law and violation of principles of natural justice and set-aside the same and consequently direct the respondents to add one annual increment to the pay of the petitioner.

Counsel for the Petitioner:MR.A.RAMA RAO

Counsel for the Respondent No.: MR.P.VINAYAKA SWAMY

The Court made the following :

O R D E R:

The petitioner is working as a conductor in the respondent-Corporation. He was issued a charge memo on 25-7-1994 and after receiving the explanation final orders were passed on 13-7-1995 imposing major penalty of withholding two annual increments with cumulative effect. The petitioner questioned the said order on the ground that though there is reduction of annual increments for a period of two years with cumulative effect is a major penalty, the 1st respondent passed the impugned order without conducting any enquiry as required under the rules. Challenge to the proceedings dated 13-7-1995 the petitioner carried the matter in appeal before the 2nd respondent. The 2nd respondent rejected the appeal through his proceedings dated 1-9-1996 as time barred. Aggrieved by the same, the present writ petition has been filed.

2. The learned counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab** wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner, therefore seeks to declare the order as illegal and it is liable to be set aside.

3. The petitioner, after receiving the adverse orders slept over the matter for a period of 8 years. There are laches on his part in asserting his right regarding this issue. In

view of the facts and circumstances of the case, though the impugned order is liable to be set aside on account of non-conducting of enquiries and in view of the judgment of the Supreme Court in **Kulwant Singh Gill (**1 supra). I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of two annual increments without cumulative effect. But in view of long lapse of time in filing the writ petition, the petitioner is not entitled to the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. However, he is entitled to get increments on notional calculation from the date of this order to which he is entitled to, as he has been imposed penalty of reduction of two increments without cumulative effect.

4. The Writ Petition is accordingly disposed of with the above observations. No order as to costs.

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1st February, 2005.

mrb

To

1 The Depot Manager, APSRTC., Kadiri Depot, Kadiri,

Anantapur District
2 The Deputy Chief Traffic Manager, APSRTC., Anantapur

Region, Anantapur District
3 The Regional Manager, APSRTC. Anantapur Region,

Anantapur District.

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